

October 2, 2003

Tung Ma, Inmate #DK-9774  
State Correctional Institution at Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112

**Re: Tung Ma v. Kenneth D. Kyler, et al.**  
**Civil Action No. 02-4380**

To the Petitioner:

I am formally complying with the order of the Honorable Petrese B. Tucker dated September 30, 2003, concerning your motion dated February 12, 2003 (before the Report and Recommendation was issued), by serving you with the three relevant volumes of transcripts in your case. It is apparent from your own habeas petition, which contains numerous specifically paginated references to your own transcripts in bold-face type, that you already have copies of these very transcripts. Habeas petition (Dkt #1) at pp. 9-10. Judge Tucker's staff has reassured me that she also has before her the state court record, including all of the transcripts. Magistrate Judge Welsh ordered that record on August 13, 2002 and received it on January 23, 2003. She did so using the following portion of Rule 5 of the Rules Governing § 2254 Habeas Cases: "The court on its own motion ... may order that further portions of the existing transcripts be furnished." Judge Welsh ordered that all existing transcripts be furnished. Order, Dkt. #4.

The stated concern in your Motion for Expansion of the Record was that "this Court will only be able to conduct a meaningful review and determine whether there is 'clear and convincing evidence' to rebut the presumption of correctness, 28 U.S.C. § 2254(e), through the expansion of the record by Respondent to include" the transcripts in this case. Dkt #16, p. 8, ¶18. You echoed this concern in the memorandum of law in support of your objections. Dkt #21, memo, p. 1-4; Dkt # 17, p. 1. The Court has the transcripts. Due to the severe limits upon our office's city taxpayer-funded resources, although I am complying with Judge Tucker's recent order to send **you** an additional copy of your transcripts, I am not sending Judge Tucker an additional copy.

Judge Tucker orders me to serve you with an excerpt from any transcript on which our pleadings rely. Instead, I will take the more economical step of sending you all volumes to which we made reference. However, for your information, references to these transcripts (at the specified pages) were made on the following pages of the Commonwealth's response to your habeas petition: Response at 2 (N.T. 3.200-201), 7 (N.T. 2.34-39, 2.134-141), 8 (2.35-51, 2.64-65), 9 (2.52-56, 2.143-146, 2.182, 2.107, 2.161, 2.65-66), 10 (2.185-198, 3.52-66, 3.197-205,

2.209, 2.58-64, 2.147-151, 2.164-169, 2.211-213, 3.16, 3.28-39, 3.74-93, 2.225, 2.226), 13 (1.2-5, 1.8), 14 (2.204-05, 3.140, 1.2-5, 1.8, 2.3-4, 2.195-207, 3.135-142, 3.97-98, 3.197-199), 15 (3.142), and 33 (2.66-109, 2.152-170).

JOHN W. GOLDSBOROUGH  
Assistant District Attorney

/jwg

Enclosures: 3 volumes of notes of testimony

cc: Hon. Petrese B. Tucker, U.S.D.J.  
Clerk, U.S.D.C., E.D.Pa.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>TUNG MA</b>	<b>:</b>	<b>CIVIL ACTION</b>
<b>V.</b>	<b>:</b>	
<b>DONALD VAUGHN, et al.</b>	<b>:</b>	<b>NO. 02-4380</b>

**CERTIFICATE OF SERVICE**

I, JOHN W. GOLDSBOROUGH, hereby certify that on October 2, 2003, a copy of the foregoing letter, and three volumes of notes of testimony, was served by placing same, first-class postage prepaid, in the United States Mail, addressed to:

Tung Ma, Inmate #DK-9774  
State Correctional Institution at Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112

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